Testimony of Jeffrey M. Gleason
Before the
Committee on Commerce Subcommittee on Energy and Power

Richmond, Virginia
April 18, 1997

Good morning. I am Jeff Gleason, director of the Energy Project of the Southern Environmental Law Center. SELC is a regional, non-profit environmental organization. We are based in Charlottesville, Virginia and Chapel Hill, North Carolina, and work on energy and air issues in the six-state region of Virginia, North Carolina, South Carolina, Tennessee, Georgia and Alabama.

You have invited me to testify today as a representative of an environmental organization, and have asked that I present an environmental perspective on the potential benefits and costs that will result from allowing consumers to choose their electric power supplier. You have also asked me to identify specific issues that I feel should be addressed in federal customer choice legislation.

Let me begin by stating my support for a truly competitive electric power market which offers customers the right to choose their electrical power supplier, which preserves the notion of universal service and contains adequate consumer protection safeguards, and which is environmentally sustainable. I believe that such a structure is achievable, but that it cannot be achieved without federal customer choice legislation addressing several key issues. I will focus my testimony only on the issues

which I believe, from both an environmental and competitive perspective, must be addressed in federal legislation.

In order to know where we must head in restructuring the nation's electric power industry, it is important to review where we are today. Today, the electric power industry is the nation's leading source of air pollution. According to the most recent published EPA data, power plants account for 66% of all sulfur dioxide emissions, 29% of all nitrogen oxide emissions, 36% of all carbon dioxide emissions, and 21% of all mercury emissions nationwide. These pollutants, individually and in the form of acid precipitation, regional haze, fine particle pollution, urban and regional smog, and climate change, pose significant threats to our health and our environment.

While the health impacts of these pollutants and their byproducts are well known, the impacts on our ecosystems are often overlooked. Ecosystem impacts are of particular concern in this region of the country, however. Air quality in the Shenandoah and Great Smoky Mountains National Parks is the worst in the country among national parks, for example; pollution-generated haze has reduced summertime visibility in the mountains to roughly one-quarter the natural range; acid rain has robbed some of our mountain streams of aquatic life and mountain peaks of trees; and ozone pollution is causing leaf damage and growth loss to trees and other plants. The same air pollution that threatens our mountains is also contributing to the decline of

the Chesapeake Bay, where over one-quarter of all nitrogen entering the Bay is airborne. Nor are rural areas unaffected. A 1995 Oak Ridge National Laboratory study found that ozone pollution at levels well below current standards retards the growth of loblolly pines, an industry that covers approximately 60 million acres and contributes $4.5 billion to the economy in the South.

As one can see from these statistics, electric energy production and environmental protection are inseparably linked. Historically, however, we have tended to ignore this link in our energy planning. As a consequence, environmental protection and energy planning have often worked at cross-purposes. The current effort to restructure the electric industry presents a unique opportunity to reverse this trend and to achieve an industry structure that is both truly competitive and fully consistent with the nation's environmental protection goals.

Although electric power plants are the largest source of air pollution in the Southeast, the bulk of emissions come from a relatively small number of plants. There are, for example, 375 power plants located in the eight states of Alabama, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. However, the twelve worst power plants alone account for 31% of the region's sulfur dioxide emissions and 44% of the region's nitrogen oxide emissions, while generating only 17% of the region's power. This disparity in emissions is due to

the fact that pre-1977 power plants are exempted from meeting the environmental standards that must be met by post-1977 plants. The theory of the "old source" exemption at the time was, in significant part, that older plants would be retired within a decade or two, avoiding the need for them to clean up to "new source" standards. For a variety of reasons, however, those older sources have remained in service, with grandfathered emission levels which are typically four to ten times higher than standards met by post-1977 plants.

The current unequal and inadequate air pollution standards for older power plants gives these sources a significant economic and competitive advantage over newer, cleaner, and more efficient sources. In order to achieve true customer choice, competitors must be allowed to compete on a level economic playing field. In order to have a truly competitive power marketplace, market participants must compete on the basis of operating efficiency, innovation and performance rather than on the basis of historic emissions rates based on plant age or location. Accordingly, federal customer choice legislation should include a competitively neutral emissions allocation system which recognizes and rewards higher plant operating efficiencies and which removes the historic grandfathering of high emissions rates for pre-1977 plants.

Since the oil embargo days of the 1970s, we have recognized the importance of national energy policies that promote greater

energy efficiency and the development of renewable energy resources. The national importance of such policies was reaffirmed, most recently, in the Energy Policy Act of 1992, a statute which also recognized that consumers will benefit from a system that encourages greater competition among electric power generators. We all share a stake in improved air quality, and benefit from fuel diversity in a world of uncertain fossil fuel prices. Policies advancing renewable energy and energy efficiency promote these and other common values. True competition, including the elimination of competition-distorting emissions standards described above, will lead to much technological innovation and more efficient use of resources. Our goals of promoting greater energy efficiency and the development of renewable energy alternatives cannot be achieved through competition alone, however, at least in the short run. It is still appropriate and important to pursue market-based policies in federal customer choice legislation which will allow us to achieve these goals. Such market-based approaches include the development and deployment of energy efficiency and renewable generating technologies with funding from broad-based, competitively neutral charges to power customers, and a well-designed renewable generation portfolio requirement.

Finally, I believe that we will achieve environmental benefits simply by giving consumers the right to purchase their power from clean energy suppliers. For this to work, however,

consumers must have available the information that will enable them to make this choice. Accordingly, I believe that federal customer choice legislation should require generators to disclose emission data and other information necessary for consumers to make informed choices concerning their electric power supplier.

In sum, federal customer choice legislation will not achieve its economic and structural goals without eliminating the competitive roadblocks built into the nation's air emission regime. Without this reform, and a companion clean air strategy, the nation will not meet its environmental and energy policy goals either. Consequently, although I support the objective of a competitive electric power market which offers customers the right to choose their electrical power supplier and which is consistent with our national environmental protection goals, I believe that federal customer choice legislation must address the issues set forth in this testimony to achieve this objective.

Thank you for the opportunity to testify before the Committee.